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February 28, 2000

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room TWB204  
Washington, D.C. 20554

RECEIVED  
FEB 28 2000  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

Re: CS Docket No. 00-2  
Reply Comments of the Office of the Commissioner of Baseball

Dear Ms. Salas:

Tendered herewith on behalf of the Office of the Commissioner of Baseball are an original and nine (9) copies of Reply Comments submitted in the above-referenced rulemaking proceeding. These Reply Comments are also being submitted on diskette to the Cable Services Bureau, in accordance with the instructions at ¶ 42 of the Notice of Proposed Rulemaking in this proceeding.

Very truly yours,

  
Robert Garrett

Enclosures

cc (w/paper encl.): Judy Boley  
Virginia Huth, OMB

cc: (w/diskette encl.): Eloise Gore  
ITS

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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In the Matter of:	)	
	)	
	)	
Implementation of the Satellite Home	)	
Viewer Improvement Act of 1999;	)	CS Docket No. 00-2
	)	
Application of Network Nonduplication,	)	
Syndicated Exclusivity, and Sports Blackout	)	
Rules to Satellite Retransmissions	)	
	)	

**RECEIVED**  
**FEB 28 2000**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**OFFICE OF THE SECRETARY**

**REPLY COMMENTS OF THE  
OFFICE OF THE COMMISSIONER OF BASEBALL**

The Office of the Commissioner of Baseball, on behalf of the thirty clubs engaged in the sport of major league baseball ("Baseball"), submits the following Reply Comments in response to the Commission's Notice of Proposed Rulemaking, FCC 00-4 (released January 7, 2000) ("Notice").

The comments filed by Baseball and other parties in this proceeding make clear that satellite carriers are routinely providing significant sports blackout protection pursuant to marketplace-negotiated agreements. *See also* Exhibits 1-3 attached hereto. Thus, there is no reason why the carriers cannot provide the minimal (but important) blackout protection required by the FCC's Sports Rule – just as their competitors in the cable industry have been providing for nearly 25 years. None of the arguments advanced by the satellite carriers establishes any factual or legal basis for reaching a different conclusion.

## 1. Technical and Economic Considerations

DirecTV says that the Commission should not require Sports Rule protection against distant network signals because that protection would pose “technical difficulties and economic burdens.” *Comments of DirecTV, Inc.* at 18 (“*DirecTV Comments*”). Echostar likewise seeks a blanket exemption from sports blackouts on network signals and even suggests that that exemption should extend to superstations. *See Comments of Echostar Satellite Corp.* at 10 (“*Echostar Comments*”). *See also Comments of the Satellite Broadcasting and Communications Ass’n* at 11-17 (“*SBCA C-Band Comments*”). For several reasons, the Commission should reject the satellite carriers’ requested exemptions.

First, in the Satellite Home Viewer Improvement Act of 1999, Pub. L. No. 106-113, 113 Stat. 1501, Appendix 1 (1999) (“SHVIA”), Congress specifically directed the Commission to consider cost and technical factors in fashioning Sports Rule protection for *network* signals. SHVIA §1008(b)(1)(B); 47 U.S.C. § 339(b)(1)(B); see also Satellite Home Viewer Act of 1988, Pub. L. No. 100-667, Title II, 102 Stat. 3949 (1988) (since repealed) (expressly conditioning FCC imposition of exclusivity rules upon a finding of technical and economic feasibility). No such directive is set forth in the provision requiring the Commission to apply the Sports Rule to *superstations*. See SHVIA §1008(b)(1)(A), 47 U.S.C. § 339(b)(1)(B). The SHVIA states that the Commission must

(A) apply network nonduplication protection (47 C.F.R. §76.92) syndicated exclusivity protection (47 C.F.R. §76.151), and sports blackout protection (47 C.F.R. §76.67) to the retransmission of the signals of nationally distributed superstations by satellite carriers to subscribers; and

(B) *to the extent technically feasible and not economically prohibitive*, apply sports blackout protection

(47 C.F.R. §76.67) to the retransmission of the signals of network stations by satellite carriers to subscribers.

47 U.S.C. § 339(b)(1)(A)&(B) (emphasis added).

The different language in subsections (a) and (b) above makes clear that technical and economic considerations are not relevant in applying the Sports Rule to satellite carriage of superstations. *See Rodriguez v. United States*, 480 U.S. 522, 525, 107 S. Ct. 1391, 1393 (1987) (“[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion”)(citations omitted).

Second, Congress placed a stringent test on satellite carriers who wish to avoid the requirements of the Sports Rules for network stations. Congress stated that satellite carriers are subject to a “heavy” burden, and must prove that complying with this rule would “entail a very serious economic threat to the health of the carrier. Without that showing, the rules should be as similar as possible to that applicable to cable services.”. *Joint Explanatory Statement of the Committee of Conference on H.R. 1554*, 106<sup>th</sup> Cong., 145 Cong. Rec. H11793, H11796 (daily ed. Nov. 9, 1999). The satellite carriers do not come close to meeting this burden. Indeed, they have submitted no cost or other financial data whatsoever, let alone the type of data necessary for the Commission to reach a supportable conclusion on their claims of burden.

Third, the record of this proceeding conclusively establishes that it is both technically and economically feasible to provide sports blackout protection. Satellite carriers, for several years, have entered into negotiated agreements with Baseball and the other sports leagues to afford blackout protection when transmitting non-broadcast

programming, such as ESPN, TNT, TBS, Fox Sports Net and out-of-market packages (e.g., MLB Extra Innings, NFL Sunday Ticket and NBA League Pass). As DirecTV acknowledges in its own web site description of the nature and purposes of sports blackouts, “Sports blackouts are a factor in every programming distribution service.” Exhibit 1, at 1; *see also* Exhibit 2, at 1 (Echostar web page noting that a “majority of professional sports and approximately 40% of collegiate sports are subject to blackouts on out-of-market networks. All cable and satellite companies are required to follow these rules.”); Exhibit 3, at 1 (Fox Sports Net web page, noting that “even though you have access to over 20 Fox Sports Net affiliates, it does not mean you will have access to all of their programming”). Clearly, therefore, the satellite industry has the means and the ability to provide the modest blackout protection required under the Sports Rule.

## **2. The 35-Mile Zone**

Certain satellite carriers suggest that it would be too difficult to determine whether a subscriber lives within the 35-mile blackout zone specified by the Sports Rule. This statement also is belied by the fact that satellite companies have contractually agreed, and are perfectly able, to black out various geographic zones based on zip codes. In some cases, the blackouts encompass all zip codes within a specified mileage zone; in other cases, they encompass all zip codes within a broadcast station’s service area; in other cases they encompass all zip codes within the service area of the regional sports network; and in other cases they encompass all zip codes within a team’s home territory. *See generally* Exhibits 1-3. There is no reason why the satellite carriers, using widely available software, cannot establish 35-mile blackout zones just as they have established these other zones.

It may be that, by using zip codes, the carriers will black out some subscribers who reside outside the 35-mile zone. *See SBCA C-Band Comments* at 14. But the same situation exists for cable, since the Sports Rule requires that an entire community be blacked out even if it is only partially within the 35-mile zone. *See* 47 C.F.R. §76.67(a). The same situation also exists in connection with the sports blackouts that carriers provide as a contractual matter. The fact that some households outside the 35-mile border might be affected by a blackout is not a reason to weaken Sports Rule protection. Indeed, there is nothing magic about “35-miles;” the zone could, and should, be larger given the fact that the carriers contractually agree to provide sports blackout protection in much larger geographic areas. *See* Exhibits 1-3.

### **3. Exemption Based Upon Subscribership**

DirecTV suggests that carriers should be exempt from providing Sports Rule protection when only a “*de minimus*” number of households are subject to blackout. It proposes such an exemption, on a carrier by carrier basis, if less than 5% of the households in a Designated Market Area (“DMA”) would be affected by the blackout. *DirecTV Comments* at 17-18.

There should be no mistake about DirecTV’s proposal – it would effectively eliminate the need for satellite carriers to afford Sports Rule protection in most cases. DirecTV does not provide any information on the number of subscribers that it or any other satellite carrier has in each of the DMAs with a sports franchise. The likelihood, however, is that that number is generally less than 5%, meaning that each carrier would likely be exempt from affording any Sports Rule protection in most markets. The proposed 5% threshold also would result in a substantial number of households having

access to telecasts that, under the Sports Rule, should otherwise be blacked out. For example, 5% of the households in the San Diego DMA (the smallest with a Baseball franchise) amounts to approximately 50,000 households, while 5% of the households in the New York DMA amounts to approximately 350,000 households.

DirecTV claims that the “technical difficulties and economic costs involved in instituting a sports blackout” justify its supposedly “*de minimus*” exception. *DirecTV Comments* at 17. But DirecTV provides absolutely no data or other factual basis to support that claim which is, in any event, contrary to fact. *See* Exhibits 1-3. DirecTV also refers to the 1,000 subscriber exemption in the Sports Rule. But that exemption was created to protect small “Mom and Pop” cable operations:

The primary reason for our decision to reduce the burden of regulation on systems of this size is our conviction that they are substantially different from larger systems and can be accorded lesser regulation without disruption of our overall regulatory program. . . . They are genuinely small “community” systems . . . [subject to] inherent economic limitations . . . .

[T]here is little profit margin. . . . Such systems, unless owned by a cable television company serving larger communities in the area, generally cannot support a full-time staff, and the burden of regulation falls particularly heavily upon systems of this size. With only this minimal economic base, compliance with many of the same rules as much larger systems is understandably difficult.

*In re Amendment of Part 76 of the Commission’s Rules and Regulations with Respect to the Definition of a Cable Television System and the Creation of Classes of Cable Systems, First Report and Order*, 63 F.C.C.2d 956, ¶¶ 54-55 (1975). That rationale has no applicability to satellite carriers, like DirecTV, that have millions of subscribers and that are already affording sports blackout protection for programming obtained in marketplace transactions.

#### **4. Timing Of Notification**

DirecTV argues that the notification requirements under the Sports Rule should be increased for satellite carriers. It says that sports leagues should give notice for an entire season's slate of games 60 days before the season starts and ten days before any blackouts due to rescheduled games. *DirecTV Comments* at 15-17. Echostar says that that satellite carriers should be afforded notice 60-days in advance – although it is unclear whether that means 60 days before the season or 60 days before the particular game. *Echostar Comments* at 10 n.12.

While these proposals superficially appear to deal with the “mechanics” of notification, their effect, if not their purpose, would be to weaken significantly the protection afforded by the Sports Rule. Baseball's telecast schedules are generally not finalized until shortly before the season starts. Furthermore, a game postponed by weather is often rescheduled for a date just a day or two later. As noted in Baseball's original comments, only 72 of the 322 superstation telecasts of Baseball games last season were eligible for Sports Rule protection. That amounts to less than 3 games per week if all superstations were retransmitted. The carriers' proposed change in notification periods would reduce that number even further.

The carriers provide no factual data to support changing the notification rules with which the cable industry has lived for a quarter of a century. While DirecTV describes the process that it must go through to effectuate blackouts, it does not explain how that process differs, if at all, from the one followed by cable operators – let alone demonstrate that any such differences support such a radically different notification procedure. The carriers, in fact, are perfectly capable of complying with sports blackout requests on

relatively short notice, just as cable operators have done for 25 years. *See also* Exhibit 1 at 3 (noting that DirecTV may receive only 72 hours notice to black out NFL telecasts).

## **5. C-Band's Exemption Request**

The SBCA argues that the SHVIA exempts the C-band industry from having to provide Sports Rule protection. *SBCA C-Band Comments* at 4-5. One will search in vain for any language in the SHVIA that affords such an exemption. SBCA cites Section 1005(a)(2)(B)(iii)(I) of the SHVIA. That provision, however, states that

*The limitations of clause (i) shall not apply to any secondary transmissions by C-band services of network stations that a subscriber to a C-band service received before any termination of such secondary transmissions before October 31, 1999.*

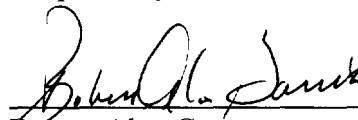
17 U.S.C. § 119(a)(2)(B)(iii)(I) (emphasis added). The “limitations of clause (i)” have nothing to do with the Sports Rule. “Clause (i)” (17 U.S.C. § 119(a)(2)(B)(i)) limits the number of distant network signals that a satellite carrier may import. While Congress exempted C-band from that limitation (in certain circumstances), it did not exempt C-band from the Sports Rule.

SBCA also refers to a fleeting colloquy between Senators Stevens and Hatch in the midst of a debate over provisions having nothing to do with the SHVIA. *SBCA C-Band Comments* at 5, *quoting* 145 Cong. Rec. S14,988 (Nov. 19, 1999). It is impossible to tell from that colloquy that Senators Stevens and Hatch were talking about sports blackout rules, as SBCA claims. In any event, that colloquy does not relate to any language in the SHVIA itself and cannot be used to create a statutory provision that simply does not exist. *See also Chrysler Corp. v. Brown*, 441 U.S. 281, 311 (1979) (“The remarks of a single legislator, even the sponsor, are not controlling in analyzing legislative history.”).

## CONCLUSION

For the reasons set forth above and in the original Comments of the Office of the Commissioner of Baseball, the Commission should extend the Sports Rule to the retransmission by satellite carriers of both nationally delivered superstations and network stations.

Respectfully submitted,



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February 28, 2000

## **DirecTV Web Site**



## Sports

### SPORTS BLACKOUTS

Sports blackouts are a factor in every programming distribution service. Blackouts are determined primarily according to who has the rights to broadcast a given game in a given area, and are defined by the leagues.

DIRECTV does not arbitrarily institute game blackouts, but simply follows the restrictions set forth by the various sports leagues or by their rights holders, such as ESPN and TNT.

#### KEY POINTS

#### PROFESSIONAL SPORTS OVERVIEW

##### NATIONAL RIGHTS

##### LOCAL RIGHTS

##### NFL SUNDAY TICKET™

##### NBA LEAGUE PASS

##### MLB EXTRA INNINGS<sub>SM</sub>

##### NHL<sup>®</sup> CENTER ICE<sup>®</sup>

##### MLS/ESPN SHOOTOUT™

##### WNBA SEASON PASS

#### REGIONAL SPORTS NETWORKS

##### ESPN GamePlan

##### ESPN FULL COURT

#### CONCLUSION

#### KEY POINTS

1. Blackout restrictions can apply to professional or college sports. They are imposed to protect the in-market rights holder on an out-of-market or national broadcast feed.
2. Regional sports networks (RSNs) **do not** provide professional sports **from outside** their local coverage areas. They **do** provide professional sports **within** their own regions. Of course, they also provide non-professional sports events.
3. DIRECTV customers **MUST** have a land-based phone line continuously connected to their DIRECTV System receiver(s) to be eligible to receive sports programming.
4. In general, to view sports action from around the country, you should purchase the TOTAL CHOICE<sup>®</sup> SPORTS or TOTAL CHOICE<sup>®</sup> PLATINUM value package -- each one offers **over 20 out-of-market regional sports networks\***, including your local regional sports network (except in areas unserved by a local RSN). Plus, you can purchase individual professional sports subscriptions to get even more out-of-market

#### Sports

- This Week ON SPORTS
- Sports on DIRECTV
- NFL SUNDAY TICKET™
- MLB EXTRA INNINGS<sub>SM</sub>
- NBA LEAGUE PASS
- NHL<sup>®</sup> CENTER ICE<sup>®</sup>
- ESPN GamePlan™
- ESPN FULL COURT™
- MLS/ESPN SHOOTOUT™
- WNBA SEASON PASS
- MEGA MARCH MADNESS™
- Sports Blackouts
- PLATINUM PRESENTS
- Ivy League Sports

#### Tonight on DIRECTV

(All times Eastern)

- |               |  |
|---------------|--|
| <b>6:00pm</b> | <b>Dudley Do-Right</b><br>1999, Comedy<br>(PG) PPV       |
| <b>8:00pm</b> | <b>The Thomas Crown Affair</b><br>1999, Drama<br>(R) PPV |
| <b>9:00pm</b> | <b>Lake Placid</b><br>1999, Horror<br>(R) PPV            |

Finding Your  
Local Dealer...

action. And for your convenience, most sports subscriptions automatically continue at a special renewal rate each year unless you call to cancel before the start of the season.

**\*RSNs purchased through the TOTAL CHOICE SPORTS or TOTAL CHOICE PLATINUM package do not usually supply additional professional sports coverage.**

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### PROFESSIONAL SPORTS OVERVIEW

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With DIRECTV, customers can receive the most complete professional sports offerings available. All TOTAL CHOICE value packages offer local team coverage to customers located within an RSN's coverage area. For example, a customer based in New York City who chooses any TOTAL CHOICE value package will see local coverage of the Yankees, Knicks and Rangers on Madison Square Garden (MSG) as well as the Mets, Nets, Islanders and Devils from FOX Sports New York. That's because residents of the New York City area are entitled to both MSG and FOX Sports New York with any TOTAL CHOICE subscription.

To receive NBA, NHL and Major League Baseball® games from outside teams' areas, customers should choose the seasonal NBA LEAGUE PASS, NHL® CENTER ICE® and MLB EXTRA INNINGS<sub>SM</sub> subscriptions. These pro sports-only subscriptions provide games on an **out-of-market** basis. Except in extremely rare cases, they do not provide coverage of a customer's local teams.

The NBA, NHL and Major League Baseball® games shown through our seasonal pro sports subscriptions come from two sources: the RSNs that we carry and "wild feeds," which originate from over-the-air TV stations or local cable systems. To receive the games broadcast on their local off-air stations, subscribers must have an off-air antenna or basic cable service.

For NFL games, DIRECTV offers NFL SUNDAY TICKET™, which provides both in-market and out-of-market action every Sunday during the regular season (subject to local blackouts; see below for details).

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### NATIONAL RIGHTS

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If a national broadcasting service such as ABC, NBC, CBS or FOX has the national rights to broadcast an NBA, NHL or Major League Baseball® game, customers may or may not be able to receive that game through their DIRECTV subscription(s), depending on the local market in which they live. If a service that DIRECTV carries -- such as ESPN, ESPN2, TNT, TBS or USA -- has the national rights to broadcast a game, subscribers will be able to receive it through their TOTAL CHOICE, TOTAL CHOICE MOVIES, TOTAL CHOICE SPORTS, TOTAL CHOICE PLATINUM or SELECT CHOICE® subscription, although some of these games are also subject to blackout. Regional sports networks do not obtain national broadcast rights to professional sports.

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### LOCAL RIGHTS

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If a local off-air broadcast channel (not ABC, NBC, CBS or FOX) or local cable system has the rights to broadcast a pro game in a certain region, customers in that area will be unable to receive that game through their DIRECTV subscription(s). If a regional sports network that DIRECTV carries has the local rights to broadcast a game, customers within the region can receive that game through any DIRECTV TOTAL CHOICE subscription, which includes customers' in-market regional sports network(s). Customers outside of the region will receive that game through the appropriate out-of-market pro sports subscription.

## PROFESSIONAL SPORTS SUBSCRIPTIONS

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### NFL SUNDAY TICKET™

**I live 80 miles from an NFL stadium. Will NFL SUNDAY TICKET bring me all the games played in that stadium?**

All sold-out regular season, Sunday afternoon NFL games are televised locally and on NFL SUNDAY TICKET. The only time a regular season, Sunday afternoon game is blacked out is if it fails to sell out at least 72 hours before the game. If it is blacked out on your local broadcast station, it will also be blacked out in your area on NFL SUNDAY TICKET. Each stadium's local blackout area is defined by the broadcast signal of the local affiliate carrying the game, not by the mileage surrounding the stadium or by zip code. To find out if your home is inside the local broadcast area, call DIRECTV at the phone number printed on your bill and ask one of our entertainment consultants to check your zip code against our master list.

#### Reasons for NFL blackouts:

- To make sure the team benefits from a stadium full of enthusiastic fans.
- To protect home game attendance of the teams.
- To assure the entertainment value of a full stadium -- for people in the stands and for people watching TV.

#### How are blackouts done?

If you live in a zip code that is within a blackout area, your satellite dish will be individually blacked out only for the affected game. You won't miss any other channels or games.

#### Will I see an NFL game that's played at my local stadium?

*You won't if:*

Your zip code falls within a blackout area and the game doesn't sell out 72 hours before scheduled kickoff.

*You will if:*

The game sold out or your zip code falls outside of a blackout area for a game that is not sold out.

### NBA LEAGUE PASS

NBA LEAGUE PASS is a sports package of NBA regular season games from outside a subscriber's local viewing area. The games included in NBA LEAGUE PASS are in addition to those available on NBC, TNT, TBS and a subscriber's in-market networks (regional sports network and/or over-the-air network).

Blackout restrictions apply to all NBA games that are offered on NBA LEAGUE PASS. Such blackout restrictions are designed to protect the television rights holders in the competing teams' respective home markets. Blackouts are not based on arena sellouts.

If a local over-the-air network has the rights to broadcast an NBA game in its local area, customers in that area will be unable to receive that game via their satellite service. However, they may be able to see the game via their local channels. If an RSN carries the game locally, a subscriber will likely be able to see the game as long as the subscriber has a level of service that includes that RSN. Here's an example:

The Lakers are playing the Rockets and both teams are broadcasting the game locally -- KCAL-Channel 9 in the Los Angeles area and FOX Sports Southwest in the Houston area. NBA LEAGUE PASS subscribers living in the Los Angeles area will be blacked out within the Lakers' over-the-air territory. To see the game, they must be able to receive KCAL. Subscribers living outside of the KCAL coverage area will receive the game via NBA LEAGUE PASS unless they live in the Houston area. Subscribers in the Houston area will be blacked out of the game for NBA LEAGUE PASS, but will be able to access the game if they subscribe to TOTAL CHOICE, TOTAL CHOICE MOVIES, TOTAL CHOICE SPORTS or TOTAL CHOICE PLATINUM and therefore receive FOX Sports Southwest.

### MLB EXTRA INNINGS<sub>SM</sub>

**Local Blackout Information**

If you live in a zip code that is within a Major League Baseball® team's territory, that team's games will be blacked out from the MLB EXTRA INNINGS game package, but will generally be available as part of your local regional sports, cable or over-the-air network. Blackouts protect the local rights holders who arrange separate distribution agreements for their exclusive territories.

**ESPN Blackout Information***ESPN Sunday Nights*

ESPN has an exclusive national broadcast window for all Major League Baseball games on Sunday nights; therefore, no telecast can be made available for DBS distribution. As they have rights to night games only, any games which start after 5:00 p.m. ET (2:00 p.m. PT) cannot be distributed via DBS carriers out-of-market.

*ESPN Wednesday Nights*

ESPN has an exclusive national broadcast window for all Major League Baseball games that begin after 5:00 p.m. ET (2:00 p.m. PT) on every Wednesday through the end of the regular season. This means that regional telecasts cannot be distributed via DBS carriers out-of-market. The only games available on Wednesday nights will be on ESPN and your local regional sports network.

**FOX Television Network Blackout Information**

Beginning May 27, 2000, and continuing for the remaining Saturdays in the regular season, the FOX Television Network has the exclusive national rights to broadcast Saturday games up until 7:00 p.m. ET (4:00 p.m. PT). So, while you will not receive Major League Baseball games on your MLB EXTRA INNINGS channels any Saturday morning or afternoon, you will receive the available Saturday night games that begin after 7:00 p.m. ET (4:00 p.m. PT). For Saturday morning and afternoon games, check out the FOX Television Network broadcast schedule in your local listings.

**NHL® CENTER ICE®**

NHL CENTER ICE is an out-of-market television subscription offered by the National Hockey League. The subscription allows customers to see broadcasts of NHL games involving teams from outside their local area.

NHL CENTER ICE delivers up to 30 games a week, including the best Canadian team matchups, with game broadcasts of CBC's Hockey Night in Canada and CTV SportsNet. In addition, NHL CENTER ICE subscribers will see select first and second round Stanley Cup playoff matches.

Blackout restrictions apply to all games that are on NHL CENTER ICE. Blackout restrictions are designed to protect the television rightsholders in the competing teams' respective home markets. Blackouts are not based on arena sellouts. Here's an example:

If the St. Louis Blues are playing the New York Rangers, the local telecast areas of the Blues and Rangers will be blacked out on NHL CENTER ICE, regardless of whether the teams are televising locally. If the teams are televising locally, NHL CENTER ICE subscribers can view the game on their over-the-air television station or their local regional sports network (RSN) -- included with any DIRECTV TOTAL CHOICE value package.

NHL CENTER ICE is not for customers who want to watch their local team telecasts. NHL CENTER ICE is designed for the NHL fan who wants to watch NHL games involving teams from outside their local area.

**MLS/ESPN SHOOTOUT™**

MLS/ESPN SHOOTOUT contains MLS games originating from either a regional sports network (RSN) or a local over-the-air (OTA) station and delivers these games to customers who purchase this subscription. These games are not otherwise available to DIRECTV subscribers because they are broadcast outside of a subscriber's local area. Further, MLS games shown nationally on ESPN,

ESPN2, Univision and ABC are not included as part of this sports subscription.

**No blackout restrictions apply to MLS/ESPN SHOOTOUT.**

**WNBA SEASON PASS**

Blackout restrictions apply to all WNBA games that are offered on the WNBA SEASON PASS subscription. Such blackout restrictions are designed to protect the television rightsholders in the competing teams' respective home markets. Blackouts are not based on arena sellouts.

Regional sports networks (RSNs) do not provide WNBA games to subscribers outside the applicable RSN's local coverage. RSNs provide WNBA games to subscribers within their own regions as long as the subscriber has a level of service (i.e., any DIRECTV TOTAL CHOICE value package) that includes that RSN. WNBA SEASON PASS is not for customers who want to watch only their home teams. This subscription is designed for WNBA fans who want to see WNBA games other than those that involve their local teams.

**National Rights**

If NBC, Lifetime or ESPN is telecasting a game nationally, that game will not be included in WNBA SEASON PASS. However, most subscribers will be able to access these games via their DIRECTV TOTAL CHOICE value package or their local channels. RSNs do not have national rights to WNBA games.

**Local Rights**

If a local over-the-air network has the rights to broadcast a WNBA game in its local area, customers in that area will be unable to receive that game via WNBA SEASON PASS on DIRECTV. However, they may be able to see the game via their local channels. If an RSN carries the game locally, a subscriber will likely be able to see the game as long as the subscriber has a level of service (i.e., any DIRECTV TOTAL CHOICE value package) that includes that RSN, or via an off-air antenna.

**Game Carried on RSN**

Actual blackout territory for RSN games varies by team. A game that is telecast locally by an RSN will not be available on WNBA SEASON PASS to subscribers within such RSN's local coverage area (which normally extends beyond 150 miles from the applicable team's city and, in certain cases, 250 miles from the applicable team's city). Instead, DIRECTV customers should tune in to their local RSN to view the game.

**Game Carried on Over-the-Air Television**

Generally, DIRECTV customers within 75 miles of the home city will not receive such game on WNBA SEASON PASS.

**Game Not Televised**

Games not televised locally will not be subject to blackouts in the 2000 season.

**REGIONAL SPORTS NETWORKS**

DIRECTV carries over 20 regional sports networks.

For RSNs that carry more than one professional team in a single sport, alternate channels are used to provide multiple team coverage -- e.g., FOX Sports Southwest carries the Houston, Dallas and San Antonio NBA teams. If more than one professional game is being played at the same time on the network (and being made available only within each team's defined geography), one of these games is designated as the "alternate" game and is also made available to subscribers living within that team's area. The feed is typically aired on one of the designated DIRECTV alternate channels.

**Multiple "Local" RSNs**

Some areas of the country are served by more than one RSN. Customers who live in such areas will receive all of their appropriate "local" RSNs. For example, customers in the greater New York area who subscribe to TOTAL CHOICE, TOTAL CHOICE MOVIES, TOTAL CHOICE SPORTS or TOTAL CHOICE PLATINUM will receive both

MSG and FOX Sports New York as their "local" RSNs.

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### COLLEGE SPORTS SUBSCRIPTIONS

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DIRECTV offers ESPN GamePlan college football on a daily and an annual basis and ESPN FULL COURT college basketball as a season ticket.

#### **ESPN GamePlan**

There are two main components to the ESPN GamePlan college football subscription. The first part includes the ABC Sports regionally televised games shown simultaneously, and the second part includes regionally syndicated games from top NCAA Division I conferences shown in various markets around the country.

ESPN GamePlan is subject to blackouts for those games in your designated region. As ABC Sports simultaneously broadcasts several games to different regions of the country, ESPN GamePlan subscribers will see one game each week on their local ABC station instead of in the subscription. As a result, if you are an ESPN GamePlan subscriber, the game(s) shown on the ABC affiliate within the local market will be blacked out.

The same may apply to some regionally syndicated games. ESPN GamePlan subscribers may receive some games via local TV stations. Those games may also be available in the subscription or, in limited situations, could be available only via the local station and not be duplicated in the subscription.

#### **ESPN FULL COURT**

The ESPN FULL COURT subscription of college basketball games consists of two components: regionally and locally broadcast games.

ESPN FULL COURT broadcasts games that are seen only in specific regions of the country. For example, the SEC Game of the Week is seen within the southeastern region of the country but not in other parts of the country. ESPN FULL COURT delivers these games (and others) on a national basis to viewers who previously could not see them. In addition to the SEC, ESPN FULL COURT consists of weekly conference games from the ACC, BIG TEN, BIG XII, BIG EAST, ATLANTIC 10, CONFERENCE USA, MOUNTAIN WEST and others. These games are not part of ESPN or ESPN2's college basketball broadcasts and cannot be seen on a national coverage basis anywhere other than on ESPN FULL COURT.

ESPN FULL COURT also contains games that are shown only in specific markets directly interested in the game. For example, the University of Kansas at Santa Clara game may only be broadcast in Kansas and California. As mentioned above, ESPN FULL COURT will also deliver this game to viewers who previously could not have seen it. These games are also not part of ESPN or ESPN2 and cannot be seen anywhere other than ESPN FULL COURT.

Blackout rules apply to ESPN FULL COURT only for ACC games in ACC territories. If you live in one of these areas, you may still be able to view these games on your local regional sports network or over-the-air network.

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### CONCLUSION

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Sports blackouts may seem confusing, but the concept is simple. Blackouts protect the in-market rights holder from the out-of-market coverage coming into the local area. Remember: Blackout restrictions apply, so not all customers receive every game in every subscription. But through a combination of subscriptions, customers can come closer than they ever thought possible to viewing their game of choice. All they need to receive great sports programming is a DIRECTV subscription (not required for NFL SUNDAY TICKET) and a DIRECTV System receiver continuously connected to a land-based phone line.

**Programming, pricing, terms and conditions subject to change.** Some TOTAL CHOICE value packages may not be available in the limited areas served by members or affiliates of the National Rural Telecommunications Cooperative.

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## Blackout Rules For Sports Programming

Blackout rules are governed by the individual sports leagues, television networks and local college and professional teams and are beyond the control of DISH Network to broadcast these games to you. Our main provider of Regional Sports Networks, FOX Sports, has a great explanation of blackouts at their website: [www.FOXsports.com](http://www.FOXsports.com).

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We encourage you to read the descriptions below to help educate yourself on the various blackout scenarios that relate to our sports programming. If you have further questions concerning blackouts, programming or information on FOX Sports Net on Satellite, please e-mail us at - [satellite@foxsports.net](mailto:satellite@foxsports.net)

Unfortunately, even though you have access to over 20 FOX Sports Net affiliates, it does not mean you will have access to all of their programming. Rights for professional teams are separated into national, regional and local TV rights. The FOX Sports Net regional sports networks own the regional rights to broadcasts of their home teams. This affects broadcasts of professional team sports - Major League Baseball, NHL, NBA & WNBA, and Major League Soccer, as well as certain NCAA football and basketball games.

When a regional sports network (RSN) purchases the rights to a professional team, the team and the league grant that RSN regional broadcast rights. This allows an RSN to show that team locally, to its region. The leagues themselves control the national rights to professional games, and in most cases the leagues will package the national rights to their games and sell them as an out-of-market sports package. This allows consumers to purchase an out-of-market sports package so that they can view games from around the country. This, however, does not allow a consumer to watch any additional games of their local team.

For example, let's say you live in St. Louis and you like to follow the St. Louis Cardinals. Since you live in the territory of the Cardinals, you can watch them on FOX Sports Net Midwest. You will receive around 40 games from the Cardinals each year. Now, if you live outside of the Cardinals territory, let's say in Colorado. You will not be able to watch the Cardinals on FOXMW. Your local RSN is FOXRM, which carries the Rockies. You can watch the Rockies on FOXRM all year, but you would be blacked out on the Cardinals on FOXMW and any other MLB games on any other RSN.

FOLLOW THE GAME

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Below, we have listed the different blackout scenarios that apply to professional and college sports programming on the regional sports networks.

### **MLB - Major League Baseball**

- 1. Subscribers may only watch their home team on their home RSN.** Example: Subscribers residing in Dallas, TX, receive home team coverage of the Texas Rangers and the Houston Astros, which appear on FOX Sports Southwest. If the Rangers or the Astros games appear on any other RSN / MLB Extra Innings those subscribers would be blacked out and would not receive that game.
- 2. If an O.T.A. (Over-the-Air) Station is broadcasting a game, the entire team territory will be blacked out.** Example: WBFS in Miami is airing the Florida Marlins vs. New York Mets game, and FOX Sports New York / MLB Extra Innings is covering the same game. Only the subscribers in the WBFS viewing area will receive that game, via WBFS local signal. All others viewers in the state of Florida would be blacked out for that telecast.
- 3. Certain time periods are reserved for national rights holders ESPN (Wednesday nights) and FOX (Saturday afternoons).** Broadcasts will only be available in the territory of the team / network covering the game. Example: MSG is carrying a NY Yankees-Baltimore Orioles game on Wednesday night. Since ESPN owns the exclusive national time slot on Wednesday nights, MSG will be allowed to show that game in the Yankees territory, only.

### **NBA - National Basketball Association**

- 1. Subscribers may only watch their home team on their home RSN.** Example: Subscribers residing in Dallas, TX, receive home team coverage of the Dallas Mavericks, which appears on FOX Sports Southwest. If the Mavericks games appear on any other RSN / NBA League Pass, those subscribers would be blacked out and would not be able to receive that game.
- 2. If an O.T.A. (Over-the-Air) Station is broadcasting a game, the signal will be blacked out within 75 miles from the arena or the Grade B contour of that signal.** Example: MSG / NBA League Pass is carrying a New York Knicks- Orlando Magic game, while WKCF, the

local over-the-air station in Orlando, is also broadcasting the same game. Therefore, a 75 mile radius around the Orlando's arena is blacked out. Anyone living inside this radius or the Grade B contour of WKCF's signal must watch the game on that station, and anyone outside the area can watch the game on MSG / NBA League Pass.

**3. NBA games will only be available in the territory of the team / network covering the game when National rights holder (TNT/TBS) owns out-of-market rights.**

Example: Sunshine is carrying an Orlando Magic game and TNT is also covering the same game. Therefore, Sunshine will only show that game in northern Florida, and would black out to the rest of the country. Whereas TNT is just the opposite, TNT would be blacked out in Orlando, but shown to the rest of the country.

**NHL - National Hockey League**

**1. Subscribers may only watch their home team on their home RSN.** Example: Subscribers residing in Denver, CO, receive home team coverage of the Colorado Avalanche, which appears on FOX Sports Rocky Mountain. If the Avalanche games are available on any other RSN / NHL Center Ice those subscribers would be blacked out and would not be able to receive that game.

**2. If an O.T.A. (Over-the-Air) Station is broadcasting a game, the signal will be blacked out within 50 mile radius of the arena.** Example: FOX Sports Detroit / NHL Center Ice is carrying a Detroit Red Wings vs. Dallas Stars. In Dallas, the local over-the-air station, KDFI is also broadcasting the game. Therefore, a 50 mile radius around the Dallas Stars arena is blacked-out. Subscribers residing inside this radius must watch the game on KDFI, and subscribers outside the area may watch the game on FOX Sports Detroit / NHL Center Ice.

**3. NHL games will only be available in the territory of the team / network covering the game when national rights holder (ESPN/ESPN2) owns out-of-market rights covering the game.** The Detroit Red Wings are being shown on FOX Sports Detroit, while ESPN is also covering the same game. Therefore FOX Sports Detroit may only show the game in the Red Wings territory, Michigan and Northern Ohio, and would black out the rest of the country. Whereas ESPN is just the opposite, ESPN would be blacked out in Detroit, but shown to the

rest of the country.

### **NCAA - College Sports**

**1. Certain college games are not available nationwide to all subscribers.** In these instances, broadcasts will only be seen in territory of the network covering the game. Conferences most often affected are Big 10, Big East and Atlantic 10. Example: A Big East basketball game between Georgetown and Syracuse is carried by MSG and HTS. Since the Regional Sports Networks do not have national rights to certain Big East games, this broadcast will only be available in the territories of the RSNs covering the game. FOX Sports Net does have national rights for college football from the BIG 12, PAC-10 and Conference USA. For Men's College Basketball FOX Sports Net has national rights to the PAC-10. All other collegiate action including women's basketball, baseball, volleyball and track and field are available nationally on all the FOX Sports RSNs.

### **NFL Sunday Ticket**

**1. NFL games are blacked out in a specific area around a stadium if the game is not sold out at least 72 hours in advance of the scheduled kickoff.** These blackout areas are determined by zip codes. Example: The Kansas City Chiefs do not sell out a home game 72 hours prior to the scheduled kick off. Therefore, the game will be blacked out on the NFL Sunday Ticket within a 75 mile radius of the stadium. (NFL games are

not broadcast on FOX Sports Net)